

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 15, 2006 Session

IN RE RANDALL B., JR.

**Appeal from the Juvenile Court for Davidson County
No. 2119-65399 Betty Adams Green, Judge**

No. M2006-00055-COA-R3-PT - Filed on September 28, 2006

This appeal involves the termination of a biological father's parental rights with regard to his seven-year-old son. Both of the child's parents have serious substance abuse issues. After the child's mother voluntarily placed him and four of his siblings with the Association for Guidance, Aid, Placement and Empathy, Inc. (AGAPE), an AGAPE social worker prescribed tasks that the father would be required to complete before assuming parental responsibility for his son. Approximately ten months later, AGAPE filed a petition in the Davidson County Juvenile Court to terminate the father's parental rights. Following a bench trial, the juvenile court determined (1) that the father had abandoned his son by failing to visit him regularly, (2) that the father had failed to comply with the requirements of his parenting plans, and (3) that the conditions that had led to placing the child in foster care persisted and would not, in all reasonable probability, be remedied at an early date. Thereafter, having concluded that terminating the father's parental rights would be in the child's best interests, the juvenile court terminated the father's parental rights and named AGAPE the child's custodian and guardian. The father has appealed. We have determined that AGAPE was obligated to make reasonable efforts to help the father address his serious drug addiction and that the record does not contain clear and convincing evidence that AGAPE's efforts in that regard were reasonable.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Juvenile Court Vacated

WILLIAM C. KOCH, JR., P.J., M.S., delivered the opinion of the court, in which PATRICIA J. COTTRELL and FRANK G. CLEMENT, JR., JJ., joined.

Cynthia Hazelwood Moore, Nashville, Tennessee, for the appellant, Randall B., Sr.

M. Allen Ehmling, Gallatin, Tennessee, for the appellee, The Association for Guidance, Aid, Placement and Empathy, Inc.

Linda M. Anderson, Nashville, Tennessee, Guardian Ad Litem.

OPINION

I.

Jamees B. had two children by the time she married Randall B., Sr. Her first child was born when she was only fourteen years old. Three children were born while Jamees B. and Randall B., Sr. were married. After their first child, Randall B., Jr., was born on July 19, 1999, Jamees B. and Randall B., Sr. did not reside together, but they did not divorce. Jamees B. gave birth to two more children in 2000 and 2003. Later genetic tests revealed that Randall B., Sr. was not the biological father of these two children.

The relationship between Jamees B. and Randall B., Sr. was an abusive one. Both were addicted to drugs, and Jamees B. had serious psychological problems. Randall B., Sr. made his living doing odd jobs and selling drugs to support his own addiction and provided Jamees B. little monetary or other assistance for herself or the children. He was frequently in jail for drug-related offenses. Jamees B. was incapable of caring for the children on her own. In September 1999, she placed Randall B., Jr. and his two older siblings with the Association for Guidance, Aid, Placement and Empathy, Inc. (AGAPE) because she was unable to care for them. AGAPE eventually returned the children to Jamees B. in February 2000.

The Department of Children's Services briefly took custody of Jamees B.'s children, including Randall B., Jr., in November 2001 after she failed to pick them up from a babysitter. In January 2002, Jamees B. voluntarily placed the children with the Department because she was homeless, addicted to cocaine, and suicidal. The children remained in the Department's custody for approximately ten months and were returned to Jamees B. in November 2002.

In December 2002, Randall B., Sr. was incarcerated after being charged with aggravated robbery stemming from a "drug deal gone bad." On October 15, 2003, Jamees B. voluntarily placed Randall B., Jr. and his two younger siblings with AGAPE because she was again unable to care for them. Jamees B. had lost her housing, had no job, and had been ordered to admit herself to a ninety-day residential drug treatment program. AGAPE assigned social worker Rachelle Mountjoy to the case and placed Randall B., Jr. and his siblings in a foster home.

Ms. Mountjoy prepared a permanency plan regarding Randall B., Jr. for Jamees B. in November 2003 but did not prepare one for Randall B., Sr. because he was in jail. She met Randall B., Sr. for the first time on January 28, 2004 after he had been released from custody. During that meeting, Randall B., Sr. told Ms. Mountjoy that he was a heavy marijuana user and that he occasionally used cocaine and pills. He also expressed an interest in mental health counseling. Ms. Mountjoy provided Randall B., Sr. with the telephone number of a behavioral healthcare organization but did not specifically discuss substance abuse treatment or counseling with him.

Randall B., Sr. and Ms. Mountjoy met again on March 2, 2004 when he signed his first permanency plan. The sole goal of the plan was to return Randall B., Jr. home. It required Randall

B., Sr. (1) to “comply with and pass” random drug screens, (2) to complete a mental health evaluation and to follow all therapy recommendations, (3) to obtain stable employment for six months, (4) to pay an agreed upon amount of child support¹ and to otherwise demonstrate that he is able to support his children, (5) to complete a parenting assessment and parenting classes, and (6) to visit regularly with Randall B., Jr. Despite Randall B., Sr.’s obvious substance abuse problem, Ms. Mountjoy, for some unexplained reason, did not include in the permanency plan any requirement that he obtain an assessment or treatment for his addiction. Randall B., Sr. also had his first supervised visit with Randall B., Jr. but declined to submit to drug screening. The Davidson County Juvenile Court approved this permanency plan on April 1, 2004.

For the next six months, Ms. Mountjoy watched Randall B., Sr. struggle as he tried to get his life in order. He was unable to find steady employment because of his criminal record. He was also arrested for driving on a revoked license, and at the time of the arrest, the authorities found drug paraphernalia in his car. Randall B., Sr. managed to visit Randall B., Jr. only sporadically. On these occasions, Randall B., Sr. either refused to submit to drug screening or failed the screen after marijuana and cocaine were found in his system. In October 2004, Randall B., Sr. told Ms. Mountjoy that he would “always be positive for marijuana” and that he used marijuana “as much as I can.”

Despite Randall B., Sr.’s lack of progress, Ms. Mountjoy prepared a second permanency plan for him in November 2004. This plan was essentially the same as Randall B., Sr.’s first permanency plan.² Inexplicably, it still contained no requirement that Randall B., Sr. be assessed or receive treatment for his drug addiction. The plan noted that AGAPE had been unable to find a family interested in adopting Randall B., Jr. and his four siblings. The juvenile court approved this plan on November 10, 2004, but it had little practical effect other than to increase the thickness of the case file.

Randall B., Sr.’s visits with his son continued to be sporadic, and Ms. Mountjoy noticed that he smelled of marijuana during a visit on November 29, 2004. Still, Ms. Mountjoy did not mention drug treatment or counseling to Randall B., Sr.

Because Randall B., Sr. had failed to find steady work, he was supporting himself by selling drugs. In January 2005, he was incarcerated after being charged with possession of marijuana and cocaine with intent to sell. Jamees B. was also arrested for prostitution. On January 13, 2005, AGAPE filed a petition in the juvenile court seeking to terminate Randall B., Sr.’s parental rights

¹The record contains no indication that Ms. Mountjoy and Randall B., Sr. ever agreed upon the amount of child support that Randall B., Sr. was expected to pay.

²In addition to the goal of returning Randall B., Jr. home, this plan listed adoption as a second goal.

with regard to Randall B., Jr. and his two younger siblings.³ The juvenile court appointed a guardian ad litem for the children and appointed a lawyer for Randall B., Sr. Approximately one month later, Randall B., Jr.'s great aunt filed a petition in the juvenile court seeking custody of Randall B., Jr.⁴

Randall B., Sr.'s lawyer requested separate trials on the substantive grounds of AGAPE's termination petition and on the question of whether terminating Randall B., Sr.'s parental rights would be in Randall B., Jr.'s best interests. The juvenile court granted the motion and conducted the first hearing on May 12, 2005. In an order filed on August 5, 2005, the juvenile court concluded that AGAPE's permanency plan "barely . . . [met] the requirement of meeting the needs of . . . [Randall B., Sr.]" and that the plan's "[m]ost obvious [shortcoming] is the failure . . . to address the drug addiction issues of the father." Notwithstanding this finding, the juvenile court decided that AGAPE's efforts to assist Randall B., Sr., while not "extraordinary," were "reasonable." Accordingly, the court found (1) that Randall B., Sr. had abandoned Randall B., Jr. by failing to visit him regularly, (2) that Randall B., Sr. had failed to comply with the requirements of his permanency plans, and (3) that the conditions that had led to placing Randall B., Jr. in foster care persisted and would not, in all reasonable probability, be remedied at an early date.

Randall B., Sr. was incarcerated from January to September 2005. While he was in jail, he completed parenting and anger management classes. Following his release, he moved into his girlfriend's apartment and found a part-time job with a janitorial service at a local hospital.

The juvenile court conducted hearings on September 20 and October 27, 2005, regarding whether it would be in Randall B., Jr.'s best interests to terminate Randall B., Sr.'s parental rights. During the October hearing, Ms. Mountjoy informed the court that AGAPE had found a foster home in Lawrenceburg for Randall B., Jr. and three of his siblings. On November 23, 2005, the court filed an order concluding that terminating Randall B., Sr.'s parental rights would be in Randall B., Jr.'s best interests. Notwithstanding the evidence that Randall B., Sr. and Randall B., Jr. had an appropriate relationship, the juvenile court terminated Randall B., Sr.'s parental rights and named AGAPE as Randall B., Jr.'s custodian and guardian. Randall B., Sr. has appealed.

II.

This appeal focuses on the reasonableness of AGAPE's efforts to assist Randall B., Sr. to rehabilitate himself to be a suitable parent for Randall B., Jr. Randall B., Sr. insists that AGAPE's efforts were not reasonable because its social worker did little more than provide him telephone numbers of agencies that might have assisted him and completely failed to assist him in obtaining assessment and treatment for his drug addiction which was the root cause of most of his other problems. AGAPE responds by suggesting that it does not have a statutory obligation to try to

³Genetic testing later established that Randall B., Sr. was not the biological father of Randall B., Jr.'s two younger siblings.

⁴The great aunt stated that she believed it was important "to keep my family together."

reunite families by assisting the parents of children placed in its custody. It also insists that its efforts to assist Randall B., Sr. – if they were required – were reasonable and that Randall B., Sr.’s efforts to rehabilitate himself were not.

A.

The central importance of the family, in its broadest sense, is ingrained in our cultural and legal heritage. The Tennessee General Assembly wove this principle into the fabric of Tennessee’s public policy when it declared that families are among the fundamental building blocks of society and that families are essential to social and economic order and the common good. Tenn. Code Ann. § 36-3-113(a) (2005). Even the statutes empowering the courts to remove children from their parents’ custody clearly state that their primary purpose is to protect children from “unnecessary separation” from their parents. Tenn. Code Ann. § 37-2-401(a)(2005). Thus, the Tennessee General Assembly has established the policy that children should not be removed from their parents’ custody unless the separation is necessary for the child’s welfare or in the interest of public safety, Tenn. Code Ann. § 37-1-101(a)(3) (2005), and that once children are removed, the first priority should be to reunite the family if at all possible. *In re C.M.M.*, No. M2003-01122-COA-R3-PT, 2004 WL 438326, at *6 (Tenn. Ct. App. Mar. 9, 2004) (No Tenn. R. App. P. 11 application filed); *In re D.D.K.*, No. M2003-01016-COA-R3-PT, 2003 WL 23093929, at *4 (Tenn. Ct. App. Dec. 30, 2003) (No Tenn. R. App. P. 11 application filed); *In re D.D.V.*, No. M2001-02282-COA-R3-JV, 2002 WL 225891, at *8 (Tenn. Ct. App. Feb. 14, 2002) (No Tenn. R. App. P. 11 application filed); *In re Drinnon*, 776 S.W.2d 96, 99-100 (Tenn. Ct. App. 1988).

The welfare of children living in a family setting is inextricably linked to their parents’ ability to care for them. A parent’s inability or disinclination to shoulder his or her parenting responsibilities can have a profound and long-lasting effect on a child. Accordingly, the Tennessee General Assembly has recognized that one of the most effective ways to improve the lives of dependent and neglected children is to improve the ability of their parents to be nurturing caregivers. Improving parenting skills results in better parents and, in turn, happier and more well adjusted children.

Even when a parent’s conduct requires removing a child from the parent’s custody, the Tennessee General Assembly has determined that, in most circumstances, the separation should be for only as long as is necessary to preserve, repair, or reunify the family.⁵ See Tenn. Code Ann. § 37-1-166(g)(2) (2005). Thus, the statutes governing dependent and neglected children and Tennessee’s foster care program reflect a preference for preserving families by reuniting parents and children whenever possible. These statutes also reflect an awareness that reunifying parents and

⁵The Tennessee General Assembly has also recognized that some parents’ conduct is so inimical to their children’s well-being that the family relationship either cannot or should not be repaired or restored. *In re C.M.M.*, 2004 WL 438326, at *6 n.19 (identifying the circumstances in which reunification is not required). In these circumstances, and in circumstances in which parents prove unable or unwilling to shoulder their parental responsibilities, the only remaining option is to terminate the parents’ parental rights and find a permanent placement that will serve the child’s best interests.

children is best accomplished by helping parents address their own challenges and improve their parenting skills.

B.

The Department of Children's Services is the state agency with primary responsibility for the care and protection of dependent and neglected children. It plays a direct role in the removal of most dependent and neglected children from their parents' custody, and Tennessee's juvenile courts regularly place these children in the Department's custody. Because of the prominent role that the Department plays in the lives of so many dependent and neglected children, the Tennessee General Assembly has explicitly imposed on the Department the responsibility to make reasonable efforts to reunify children and their parents after removing the children from their parents' home. Tenn. Code Ann. § 37-1-166.

The Department must memorialize its efforts in an individualized permanency plan prepared for every dependent and neglected child placed in its custody. The requirements in each permanency plan must be directed toward remedying the conditions that led to the child's removal from his or her parent's custody. *In re Valentine*, 79 S.W.3d 539, 547-49 (Tenn. 2002); *In re M.J.B.*, 140 S.W.3d 643, 656-57 (Tenn. Ct. App. 2004); *In re L.J.C.*, 124 S.W.3d 609, 621 (Tenn. Ct. App. 2003). Reflecting the Tennessee General Assembly's understanding that the ability of parents to rehabilitate themselves depends on the Department's assistance and support,⁶ permanency plans place obligations on the Department to help parents become better able to provide their children with a safe and stable home and with consistent and appropriate care. *In re C.S., Jr.*, No. M2005-02499-COA-R3-PT, 2006 WL 2644371, at *9 (Tenn. Ct. App. Sept. 14, 2006).

While the Department's efforts need not be "herculean,"⁷ the Department must do more than simply provide the parents with a list of service providers and then leave the parents to obtain services on their own. *In re Giorgianna H.*, ___ S.W.3d at ___, 2006 WL 721303, at *6; *In re C.M.M.*, 2004 WL 438326, at *7. The Department's employees must bring their education and training to bear to assist the parents in a meaningful way to address the conditions that required removing their children from their custody and to complete the tasks imposed on them in the permanency plan. *In re Giorgianna H.*, ___ S.W.3d at ___, 2006 WL 721303, at *6; *In re J.L.E.*, No. M2004-02133-COA-R3-PT, 2005 WL 1541862, at *14 (Tenn. Ct. App. June 30, 2005) (No Tenn. R. App. P. 11 application filed); *In re D.D.V.*, 2002 WL 225891, at *8. The Department cannot use budgetary concerns to justify its failure to make reasonable efforts to reunify parents and

⁶ *In re W.A.H.*, No. W2006-00585-COA-R3-PT, 2006 WL 2257341, at *5 (Tenn. Ct. App. Aug. 8, 2006); *In re Giorgianna H.*, ___ S.W.3d ___, ___, 2006 WL 721303, at *5 (Tenn. Ct. App. 2006); *In re C.M.M.*, 2004 WL 438326, at *7; *State v. Demarr*, No. M2002-02603-COA-R3-CV, 2003 WL 21946726, at *10 (Tenn. Ct. App. Aug. 13, 2003) (No Tenn. R. App. P. 11 application filed).

⁷ *In re K.E.R.*, No. M2006-000255-COA-R3-PT, 2006 WL 2252746, at *5 (Tenn. Ct. App. Aug. 3, 2006); *State v. Malone*, No. 03A01-9706-JV-00224, 1998 WL 46461, at *2 (Tenn. Ct. App. Feb. 5, 1998), *perm. app. denied* (Tenn. June 8, 1998).

their children. *In re A.J.H.*, No. M2005-00174-COA-R3-PT, 2005 WL 3190324, at *10 (Tenn. Ct. App. Nov. 28, 2005) (No Tenn. R. App. P. 11 application filed).

The Department's efforts to reunify parents and their children will be deemed reasonable if the Department has exercised "reasonable care and diligence . . . to provide services related to meeting the needs of the child and the family." Tenn. Code Ann. § 37-1-166(g)(1). The reasonableness of the Department's efforts depends upon the circumstances of the particular case. In cases like this one, the factors that courts use to determine reasonableness include: (1) the reasons for separating the parents from their children, (2) the parents' physical and mental abilities, (3) the resources available to the parents, (4) the parents' efforts to remedy the conditions that required the removal of the children, (5) the resources available to the Department, (6) the duration and extent of the parents' efforts to remediate the problems that caused the children's removal, and (7) the closeness of the fit between the conditions that led to the initial removal of the children, the requirements of the permanency plan, and the Department's efforts.⁸ *In re Giorgianna H.*, ___ S.W.3d. at ___, 2006 WL 721303, at *6; *In re C.M.C.*, No. E2005-00328-COA-R3-PT, 2005 WL 1827855, at *9 (Tenn. Ct. App. Aug. 3, 2005) (No Tenn. R. App. P. 11 application filed); *State v. B.B.M.*, No. E2004-00491-COA-R3-PT, 2004 WL 2607769, at *6 (Tenn. Ct. App. Nov. 17, 2004) (No Tenn. R. App. P. 11 application filed); *In re C.M.M.*, 2004 WL 438326, at *7.

Reunification of a family, however, is a two-way street, and neither law nor policy require the Department to accomplish reunification on its own without the assistance of the parents. *In re C.S., Jr.*, 2006 WL 2644371, at *9; *In re D.J.D.*, No. E2005-01911-COA-R3-PT, 2006 WL 1005147, at *13 (Tenn. Ct. App. Apr. 18, 2006) *perm. app. denied* (Tenn. July 20, 2006); *In re R.C.V.*, No. M2001-02102-COA-R3-JV, 2002 WL 31730899, at *12 (Tenn. Ct. App. Nov. 18, 2002) (No Tenn. R. App. P. 11 application filed). Parents share the responsibility for addressing the conditions that led to the removal of their children from their custody. They must also make reasonable efforts to rehabilitate themselves once services have been made available to them. *In re Giorgianna H.*, ___ S.W.3d. at ___, 2006 WL 721303, at *6; *State v. B.B.M.*, 2004 WL 2607769, at *7; *In re C.M.M.*, 2004 WL 438326, at *7.

C.

While the juvenile courts place most children found to be dependent and neglected with the Department, other foster care alternatives are available. One of these alternatives is placement with licensed private agencies like AGAPE. Tenn. Code Ann. § 37-1-130(a)(2)(C) (2005). These private agencies perform many of the same functions as the Department. AGAPE concedes that it must provide the same services to the children placed in its care that are provided to the children placed in the Department's custody. However, because Tenn. Code Ann. § 36-1-166 applies only to the Department, it questions whether it must make the same efforts to reunify the children with their

⁸Reunification efforts directed toward matters of little consequence are not reasonable. *In re Valentine*, 79 S.W.3d at 548-49 (a permanency plan must be reasonable and must be related to remedying the conditions that led to the removal in the first place).

parents that the Department is statutorily required to make. We have determined that its obligation is the same.

Private agencies must prepare a permanency plan for each child placed in their care either by voluntary agreement or by order of a court. Tenn. Code Ann. §§ 37-2-403(a)(1), 37-5-517(a) (2005).⁹ Like the Department's permanency plans, these plans must include a "statement of responsibilities between the parents, the agency and the caseworker for such agency." Tenn. Code Ann. § 37-2-403(a)(2)(A). These statements must be "specific" and must be reasonably related to achieving one of the placement goals listed in Tenn. Code Ann. § 37-2-403(a)(2)(A). Among these goals is the goal of returning the child to his or her parents. Tenn. Code Ann. § 37-2-403(a)(1)(A).

In cases involving neglect, the statement of responsibilities contained in a permanency plan prepared by a private agency must contain a requirement that the parent receive appropriate rehabilitative assistance through mental health consultation if so ordered by the court. Tenn. Code Ann. § 37-2-403(a)(5). In addition, the Department's regulations require foster care agencies to provide the children in their custody with foster home studies, ongoing training, and a long-term support plan. Tenn. Comp. R. & Regs. 0250-4-9-.05(2)(a)(5) (1999). This plan must include "[i]mmediate and long-range goals in respect to assisting the child and his [or her] family, including discharge and follow-up." Tenn. Comp. R. & Regs. 0250-4-9-.05(2)(b)(4).

The private agency and the parent may agree on their respective responsibilities for achieving reunification of the family. Tenn. Code Ann. § 37-2-403(a)(3). If they cannot agree, the court will prepare a permanency plan itself, Tenn. Code Ann. § 37-2-403(a)(4)(A), and in any event, the court must review and approve all permanency plans to assure that they are in the child's best interests. Tenn. Code Ann. § 37-2-403(a)(2)(A). Like the Department, private agencies must submit periodic progress reports to the court. Tenn. Code Ann. § 37-2-404(b) (2005).

The statutes governing terminating parental rights also reflect the Tennessee General Assembly's recognition that the obligation to reunite families is shared by the parents and by the public or private agencies receiving custody of their children. The termination of the parental rights of the parents of some abandoned children cannot take place unless "the . . . agency has made reasonable efforts to assist the parent(s) . . . to establish a suitable home for the child." Tenn. Code Ann. § 36-1-102(1)(A)(ii). Similarly, one of the factors that should be considered when determining whether terminating a parent's parental rights is in his or her child's best interests is "[w]hether the parent . . . has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible." Tenn. Code Ann. § 36-1-113(i)(2).

When the courts are called upon to construe state statutes, their primary responsibility is to ascertain and to give effect to the intent and purpose of the Tennessee General Assembly. *Freeman*

⁹ A different sort of plan must be prepared for children whose parents have surrendered custody or who have had their parental rights terminated. Tenn. Code Ann. § 37-2-403(b)(1).

Indus., LLC v. Eastman Chem. Co., 172 S.W.3d 512, 522 (Tenn. 2005); *Sullivan ex rel. Hightower v. Edwards Oil Co.*, 141 S.W.3d 544, 547 (Tenn. 2004). The courts must avoid constructions that unduly restrict or expand the statute's application. *Sallee v. Barrett*, 171 S.W.3d 822, 828 (Tenn. 2005); *Watt v. Lumbermens Mut. Cas. Ins. Co.*, 62 S.W.3d 123, 127-28 (Tenn. 2001). The goal is to construe statutes, especially statutes addressing the same subject matter or sharing a common purpose, in a way that avoids conflict and facilitates the harmonious operation of the law. *In re C.K.G.*, 173 S.W.3d 714, 729 (Tenn. 2005); *Frye v. Blue Ridge Neuroscience Ctr., P.C.*, 70 S.W.3d 710, 716 (Tenn. 2002).

The courts must also endeavor to make sense rather than non-sense out of statutes. *West Va. Univ. Hosps., Inc. v. Casey*, 499 U.S. 83, 101, 111 S. Ct. 1138, 1148 (1991), *superseded by statute*, Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1074, 42 USCS § 1988(c), *as recognized in Landgraf v. USI Film Products*, 511 U.S. 244, 251, 114 S. Ct. 1483, 1490 (1994); *McClellan v. Bd. of Regents*, 921 S.W.2d 684, 689 (Tenn. 1996); *Mercy v. Olsen*, 672 S.W.2d 196, 200 (Tenn. 1984). Thus, the courts must construe a statute's words using their natural and ordinary meaning unless the context in which the words are used requires otherwise. *Tenn. Waste Movers, Inc. v. Loudon*, 160 S.W.3d 517, 519 (Tenn. 2005); *Frazier v. East Tennessee Baptist Hosp., Inc.*, 55 S.W.3d 925, 928 (Tenn. 2001). Because words are known by the company they keep, *In re Audrey S.*, 182 S.W.3d 838, 870 (Tenn. Ct. App. 2005), the courts should construe statutory language in the context of the entire statute and in light of the statute's general purpose. *Honsa v. Tombigbee Transp. Corp.*, 141 S.W.3d 540, 542 (Tenn. 2004); *Osborn v. Marr*, 127 S.W.3d 737, 740 (Tenn. 2004).

Tennessee's public policy embodies a preference for keeping families together, even after the parents have erred. Thus, the statutes applicable to dependent and neglected children and to Tennessee's foster care program are directed toward reuniting, rather than undermining, families. They reflect the Tennessee General Assembly's recognition that children of dysfunctional families should not be returned to their parents unless the parents have addressed the causes of their own inability to provide appropriate parental care and supervision. They also reflect an understanding that in order to help the child and the family, one must help the parents.

Family relationships are constitutionally protected. Therefore, the parents of children who are in the custody of a private agency by virtue of an order of a court are entitled to the same rehabilitative services that parents of children in the Department's custody are entitled to receive. There is no rational basis for distinguishing between the two. In light of Tennessee's pro-family policies, we decline to construe the statutes governing the responsibilities of private agencies providing foster care services to dependent and neglected children to permit these agencies to provide less assistance to parents than Tenn. Code Ann. § 36-1-166 requires of the Department. It would make little sense to create a loophole broad enough to provide a convenient fast track to termination for parents whom either the Department or the private agencies decide are beyond help.

D.

Determining that private agencies must make the same efforts to reunite the family that Tenn. Code Ann. § 36-1-166 requires the Department to make does not end the matter. We must still review the record on appeal to determine whether AGAPE presented clear and convincing evidence that the services it provided to Randall B., Sr. were sufficient to comply with Tenn. Code Ann. § 36-1-166. We have determined that AGAPE's efforts to assist Randall B., Sr. were not reasonable because they failed to address the root cause of Randall B., Sr.'s difficulties – his drug addiction.

When reunification of a family is the goal, the responsibilities of both the parents and the private agency or the Department must be reasonably related to accomplishing the goal. *See In re Valentine*, 79 S.W.3d at 548-49. The order in which parents address their problems must also be reasonable and practical. It is unreasonable, for example, to require parents with a serious drug addiction or a serious psychological disorder to find adequate housing or to hold a steady job until they have addressed the underlying problem. *In re M.J.M., Jr.*, No. M2004-02377-COA-R3-PT, 2005 WL 873302, at *11 (Tenn. Ct. App. Apr. 14, 2005) (No Tenn. R. App. P. 11 application filed) (recognizing that a parent's drug addiction will impede the parent's ability to address other parenting issues).

On two prior occasions, this court has vacated orders terminating parental rights because the Department had failed to present clear and convincing evidence that its efforts to assist a parent in addressing parenting deficits had been reasonable. Both cases involved parents diagnosed with narcissistic personality disorder. In the first case, this court held that the Department's effort to terminate the mother's parental rights under Tenn. Code Ann. § 36-1-113(g)(1), (2), (3) was premature because the Department had failed to make a reasonable effort to assist the mother in obtaining treatment for the disorder even though it had been diagnosed and treatment had been recommended. *In re M.V.*, No. E2006-00686-COA-R3-PT, 2006 WL 1864470, at *11 (Tenn. Ct. App. July 6, 2006) (No Tenn. R. App. P. 11 application filed). Approximately one month later, we reached a similar result in another case in which the Department presented no evidence that it had attempted to provide assistance to a father for the same disorder. On this occasion, we also noted that the fact that the likelihood of the treatment's success is poor did not excuse the Department from its statutory obligations to make reasonable efforts to reunite the father and his children. *In re W.A.H.*, 2006 WL 2257341, at *6.

There is no question that AGAPE's social worker, Ms. Mountjoy, was keenly aware of Randall B., Sr.'s drug addiction. Randall B., Sr. told Ms. Mountjoy that he was addicted to drugs during their first meeting when he confessed to using marijuana, cocaine, and pills. Randall B., Sr. repeatedly declined to take random drug tests, and when he submitted to the tests, the results were invariably positive for marijuana and cocaine. Despite these clear, unmistakable warning signs, Ms. Mountjoy failed to require drug assessment and treatment in the permanency plans she prepared for Randall B., Sr. Likewise, she failed to encourage Randall B., Sr. to seek treatment or counseling for his drug addiction during their face-to-face meetings when Randall B., Sr. either failed a drug screen or smelled of marijuana.

Randall B., Sr.'s addiction to drugs is the root cause of his parenting problems. In light of Ms. Mountjoy's failure to take reasonable steps to assist Randall B., Sr. in addressing his obvious drug addiction, AGAPE failed to prove by clear and convincing evidence that its efforts to assist Randall B., Sr. to develop the parenting skills that would entitle him to the return of his son were reasonable. Accordingly, the juvenile court erred by determining that terminating Randall B., Sr.'s parental rights is in Randall B., Jr.'s best interests.

III.

We vacate the order terminating Randall B., Sr.'s parental rights with regard to Randall B., Jr. and remand the case to the juvenile court for further proceedings consistent with this opinion. We tax the costs of this appeal to the Association for Guidance, Aid, Placement and Empathy, Inc. for which execution, if necessary, may issue.

WILLIAM C. KOCH, JR., P.J., M.S.